

The article further stated that people could have questions answered by calling a toll free hotline number.⁸² Numerous other newspaper articles and television broadcasts throughout the state of New York contained similar stories.⁸³ For example, the NBC evening news in New York City began with the following: "They're practically household names, the diets drugs Phen-Fen and Redux ... are being pulled off the market. They have been linked to serious heart damage."⁸⁴

39. Newspapers in Delaware similarly reported on the withdrawal of Pondimin and Redux from the market. For example, the *News Journal* ran a front-page article entitled "Diet Drugs Pulled Off the Market," explaining that after the Mayo Clinic announcement caused sales to markedly decline, more reports of heart disease surfaced, prompting the decision to withdraw the diet drugs from the market.⁸⁵

⁸² *Id.*

⁸³ See, e.g., *Heart Damage Prompts Recall of Two Diet Drugs*, BUFFALO NEWS, Sept. 15, 1997, at A1; *Fat-Fighter Fen-Phen Drugs Pulled Off Market*, N.Y. POST, Sept. 16, 1997, at 5; Susan Ferraro, *Two Top Diet Drugs Pulled*, N.Y. DAILY NEWS, Sept. 16, 1997, at 5; Lauran Neergaard, *Dieters' Options Trimmed by Recall of Two Drugs*, BUFFALO NEWS, Sept. 16, 1997, at A4; *2 News at 5:00* (WCBS-TV television broadcast Sept. 15, 1997); *5 News at 10:00* (WNYW-TV television broadcast, Sept. 15, 1997); *7 News at 5:00* (WABC-TV television broadcast, Sept. 15, 1997); *9 News at 10:00* (WWOR-TV television broadcast, Sept. 15, 1997); *11 News at 10:00* (WPIX-TV television broadcast, Sept. 15, 1997); *55 News at 10:00* (WLNY-TV television broadcast, Sept. 15, 1997); *1010 Noon News* (WINS-AM radio broadcast, Sept. 15, 1997); *Nighttime Edition* (NTL-TV television broadcast, Sept. 15, 1997); *13 News at 6:00* (WNET-TV television broadcast, Sept. 16, 1997); *88 News Radio* (WCBS-AM radio broadcast, Sept. 16, 1997); *Good Day New York* (WNYW-TV television broadcast, Sept. 16, 1997); *Howard Stern Show* (WXRK-FM radio broadcast, Sept. 16, 1997).

⁸⁴ *4 News at 5:00* (WNBC-TV television broadcast, Sept. 15, 1997).

⁸⁵ Lauran Neergaard, *Diet Drugs Pulled Off the Market: Doctors Find Link to Heart Damage*, NEWS J. (Wilmington, Del.) Sept. 16, 1997, at A1; see also Lauran Neergaard, *Popular Diet Drugs Removed from Market*, DEL. STATE NEWS, Sept. 16, 1997, at 1.

40. Widespread media publicity accompanied the withdrawal of Pondimin and Redux in the South as well. One such article published in the *Florida Times Union* reported, one day after the withdrawal, that “[d]rug companies pulled two highly popular diet drugs off the market yesterday because of new evidence that nearly one-third of people who take the medications might develop heart valve damage.”⁸⁶ On the same day, the *Miami Herald* ran a front-page article entitled “Two Popular Diet Drugs Pulled From the Market,” and reported that “[FDA] cited new studies showing that the drugs might cause irreversible and sometimes fatal damage to heart valves.”⁸⁷ Other Florida newspapers likewise ran front-page articles on the market withdrawal.⁸⁸ Numerous television stations also featured the story.⁸⁹ For example, Ft. Lauderdale’s Fox affiliate reported that

⁸⁶ *2 Diet Drugs Removed Pondimin, Redux Affected, FLA.* TIMES-UNION, Sept. 16, 1997, at A1.

⁸⁷ Brigid Schulte, *Two Popular Diet Drugs Pulled from Market*, MIAMI HERALD, Sept. 16, 1997, at A1.

⁸⁸ See, e.g., *Controversial Diet Drugs Are Taken Off Shelf*, ORLANDO SENTINEL, Sept. 16, 1997, at A1; Vickie Chachere, *Pair of Diet Drugs Pulled from Market*, TAMPA TRIB., Sept. 16, 1997, at 1; Margo Harakas, *2 Popular Diet Drugs Recalled: Appetite Suppressants Linked to Heart Damage*, SUN- SENTINEL (Ft. Lauderdale, Fla.), Sept. 16, 1997, at 1A; Sue Landry, *Two Top Diet Drugs Taken Off Market*, ST. PETERSBURG TIMES (Fla.), Sept. 16, 1997, at 3A; *2 Diet Drugs Removed*, FLORIDA TIMES-UNION, Sept. 16, 1997, at A-1.

⁸⁹ See, e.g., *4 News at 5:00* (WFOR-TV television broadcast, Sept. 15, 1997); *4 News at 5:30* (WFOR-TV television broadcast, Sept. 15, 1997); *6 News at 6:00* (WTvj-TV television broadcast, Sept. 15, 1997); *39 News at 10:00* (WDZL-TV television broadcast, Sept. 15, 1997); *PM Drive News* (WINZ-AM radio broadcast, Sept. 15, 1997); *6 News at 12:00* (WCPX-TV Sept. 15, 1997); *7 News at 11:00* (WSVN-TV Sept. 15, 1997); *9 News Tonight* (WFTV-TV Sept. 15, 1997); *Eyewitness News at 10:00* (WRBW-TV Sept. 15, 1997); *12 News at 11:00* (WTLV-TV Sept. 15, 1997); *Fox 30 News at Ten* (WAWS-TV Sept. 15, 1997); *Eyewitness News at Noon* (WJXT-TV Sept. 15, 1997); *Eyewitness News First at 5:00* (WJXT-TV Sept. 15, 1997); *10 news at Eleven* (WTSP-TV Sept. 15, 1997); *Fox 13 6:30 News* (WTVT-TV Sept. 15, 1997); *NewsChannel 8 Morning Edition* (WFLA-TV Sept. 15, 1997); *NewsChannel 8 at 11:00* (WFLA-TV Sept. 15, 1997); *PBF* [Footnote continued on next page]

"Americans will no longer be able buy two of the most popular diet drugs. Redux and the combination Fen-Phen are off the market nationwide."⁹⁰

41. Florida newspapers also reported that lawsuits sprang up almost immediately after the recall.⁹¹ One article titled, "Fen-Phen is Fat City for Lawyers: Attorneys Are Hungry to Sue Over Diet Drugs," stated that practically overnight, the September 15, 1997, recall of Redux and Pondimin

[Footnote continued from previous page]

News at 6:00 (WPBF-TV Sept. 15, 1997); *PBF News Nightbeat* (WPBF-TV Sept. 15, 1997); *Eyewitness News at 5:00* (WPEC-TV Sept. 15, 1997); *Ten O'Clock News* (WFLX-TV Sept. 15, 1997); *News Channel 5 News Nightbeat* (WPTV-TV Sept. 15, 1997); *Eyewitness News Live at Five* (WFTV-TV Sept. 15, 1997); *6 News at 11:00* (WCPX-TV Sept. 15, 1997); *6 News at 5:00* (WCPX-TV Sept. 15, 1997); *Newschannel 2 at Five* (WESH-TV Sept. 15, 1997); *Newschannel 2 at 11:00* (WESH-TV Sept. 15, 1997); *6 News Today* (WTVJ-TV television broadcast, Sept. 16, 1997); *7 News Today* (WSVN-TV television broadcast, Sept. 16, 1997); *10 News Daybreak* (WPLG-TV television broadcast, Sept. 16, 1997); *6 News This Morning* (WCPX-TV Sept. 16, 1997); *28 news at 5:30* (WFTS-TV Sept. 16, 1997); *Today in South Florida* (WTVJ-TV Sept. 16, 1997); *Today in Florida* (WSVN-TV Sept. 16, 1997); *6 News Midday* (WTVJ-TV television broadcast, Sept. 16, 1997); *10 News Daybreak* (WPLG-TV Sept. 16, 1997); *8 News at 12:00* (WFLA-TV Sept. 16, 1997); *28 News at 11:00* (WFTS-TV Sept. 16, 1997); *10 News Nightbeat* (WPLG-TV Sept. 16, 1997); *Eyewitness News Live at Five* (WFTV-TV Sept. 16, 1997); *PBF News Nightcast* (WPBF-TV Sept. 16, 1997); *Eyewitness News Daybreak* (WFTV-TV Sept. 16, 1997); *4 News at 7:00* (WFOR-TV Sept. 16, 1997); *13 News Good Day Tampa Bay* (WTVT-TV Sept. 16, 1997); *10 News Daybreak* (WTSP-TV Sept. 16, 1997); *4 News This Morning* (WFOR-TV Sept. 16, 1997); *10 News at 4:00* (WTSP-TV Sept. 16, 1997); *3 News Morning* (WEAR-TV Sept. 16, 1997); *12 News Good Morning Jacksonville* (WTLV-TV Sept. 16, 1997); *4 News Daybreak* (WJXT-TV Sept. 16, 1997); *Eyewitness News This Morning* (WJXT-TV Sept. 16, 1997); *Eyewitness News at Noon* (WJXT-TV Sept. 16, 1997); *Eyewitness News Nightbeat* (WJXT-TV Sept. 16, 1997); *12 News Tonight* (WTLV-TV Sept. 16, 1997); *Newschannel 2 Early Sunrise* (WESH-TV Sept. 16, 1997); *Newschannel 8 Morning Edition* (WFLA-TV Sept. 16, 1997); *Sunrise on 5* (WPTV-TV Sept. 16, 1997); *Midday on 5* (WPTV-TV Sept. 16, 1997); *6 News Midday* (WTVJ-TV television broadcast, Sept. 17, 1997); *10 News Daybreak* (WPLG-TV television broadcast, Sept. 17, 1997).

⁹⁰ *7 News at 6:00* (WSVN-TV television broadcast, Sept. 15, 1997).

⁹¹ See, e.g., Mike Stobbe, *Lawyers Target Fen-Phen Users: Diet-pill Combination Has Been Banned Due to Possible Health Risks*, THE FLORIDA TIMES-UNION, September 29, 1997, at A1.

turned diet drug users into lawyer magnets.⁹² The article expressed how massive the litigation would be over the diet drugs and reported on a number of class actions that were already pending as well as others expected to be filed by plaintiffs' attorneys.⁹³

42. The story of the diet drug withdrawal received similar, high-profile coverage in both the print and broadcast media in Georgia. Coverage included the FDA advisory to persons taking the diet drugs to stop immediately and contact their doctors.⁹⁴ The *Atlanta Constitution* printed an article with the headline "Dieters Lose Drugs of Choice," explaining that "[t]he action was necessary to stop abuses of the drugs, which have been linked to serious heart problems."⁹⁵ Georgia television stations also provided a torrent of publicity concerning Wyeth's removal of diet drugs from the market. WGNX-TV, WXIA-TV, and WAGA-TV all broadcast stories about the withdrawal that day.⁹⁶ One such report began the broadcast with a stern warning: "Tonight's big story -- if you have been taking Redux

⁹² Noreen Marcus, *Fen-Phen is Fat City for Lawyers: Attorneys are Hungry to Sue Over Diet Drugs*, SUN-SENTINEL (Ft. Lauderdale, Fla.), Sept. 28, 1997.

⁹³ *Id.*

⁹⁴ See, e.g., Ann Hardie, *Health Watch Special Focus: Diet Drugs*, ATLANTA CONST., Sept. 16, 1997, at B3.

⁹⁵ Ann Hardie, *Dieters Lose Drugs of Choice: Patients, Clinics Left Scrambling*, ATLANTA J., Sept. 16, 1997, at B1.

⁹⁶ *News at Noon* (WGNX-TV television broadcast, Sept. 15, 1997); *11 News at 5:00* (WXIA-TV television broadcast, Sept. 15, 1997); *Eyewitness News at 5:00* (WAGA-TV television broadcast, Sept. 15, 1997).

or fenfluramine, stop -- immediately. Both diet drugs were recalled today after being linked to serious heart damage."⁹⁷

43. Soon after the withdrawal of the drugs, Georgia newspapers began reporting about possible and pending diet drug lawsuits. This coverage included reports of class actions brought in other parts of the county, lawsuits brought by state residents, and a class action brought on behalf of Georgians who used the drugs.⁹⁸

44. News of the withdrawal was disseminated in print and on television in Louisiana as well.⁹⁹ For example, the *New Orleans Times-Picayune*'s front-page article entitled "Heart Scare Stops Sale of 2 Diet Pills" reported that an FDA sample study found more heart valve problems in diet drug users than in the general population.¹⁰⁰

45. As in other southern states, news about the withdrawal of Pondimin and Redux from the market, and the health risks possibly associated with the drugs, was widely disseminated in North Carolina. For example, the *Charlotte Observer*, the *Greensboro News and Record*, and the

⁹⁷ *11 News at 5:00* (WXIA-TV television broadcast, Sept. 15, 1997).

⁹⁸ Ron Martz, *Georgia Women Sues Makers of Diet Drug*, ATLANTA JOURNAL, Sept. 23, 1997, at C5; Ron Martz, *Suits Against Fen-Phen Spread to Georgia*, ATLANTA CONSTITUTION, Sept. 25, 1997, at C2.

⁹⁹ *Heart Scare Stops Sale of 2 Diet Pills*, THE NEW ORLEANS TIMES-PICAYUNE, Sept. 16, 1997, at A1; 6 News Tonight (WDSU-TV television broadcast Sept. 15, 1997); 8 News at 5:00 (WVUE-TV television broadcast Sept. 15, 1997).

¹⁰⁰ *Heart Scare Stops Sale of 2 Diet Pills*, THE NEW ORLEANS TIMES-PICAYUNE, Sept. 16, 1997, at A1.

Raleigh News and Observer all ran front-page stories on the withdrawal.¹⁰¹ The *Charlotte Observer*'s story, "Heart Damage Pulls Plug on Diet Drugs Redux and 'Fen,'" recommended that users "see their doctor for close heart monitoring."¹⁰² Many local news stations led the broadcast with the story of the withdrawal.¹⁰³ For instance, one local news broadcast reported: "Two popular diet drugs off the shelves. They could kill you."¹⁰⁴ The report continued: "[FDA] yanked the products after discovering some pretty alarming side effects."¹⁰⁵

46. In the central United States, news of the withdrawal also was widely publicized.¹⁰⁶ For example, television stations and newspapers

¹⁰¹ See, e.g., Lauran Neergaard, *Heart Damage Pulls Plug on Diet Drugs Redux and 'Fen'*, CHARLOTTE OBSERVER, Sept. 16, 1997, at 1A; Lauran Neergaard, *Redux, Pondimin Pulled Off Shelves by Government*, GREENSBORO NEWS & REC. (N.C.), Sept. 16, 1997, at A1; John Schwartz, *Popular Diet Drugs Removed from Market; The Food and Drug Administration Finds New Evidence that the Two Drugs May Cause Heart Valve Damage*, NEWS & OBSERVER (Raleigh, N.C.), Sept. 16, 1997, at 1.

¹⁰² Lauran Neergaard, *Heart Damage Pulls Plug on Diet Drugs Redux and 'Fen'*, CHARLOTTE OBSERVER, Sept. 16, 1997, at 1A.

¹⁰³ See, e.g., 3 News at 5:00 (WBTV-TV television broadcast, Sept. 15, 1997); 5 News at 5:00 (WRAL-TV television broadcast, Sept. 15, 1997); 11 News at 5:00 (WTVD-TV television broadcast, Sept. 15, 1997); 22 News at 10:00 (WLFL-TV television broadcast, Sept. 15, 1997); 36 News at 5:00 (WCNC-TV television broadcast, Sept. 15, 1997); 50 News at 10:00 (WRAZ-TV television broadcast, Sept. 15, 1997); 5 News at 11:00 (WRAL-TV television broadcast, Sept. 16, 1997); 11 News at 6:00 (WTVD-TV television broadcast, Sept. 16, 1997); 17 News Today (WNCN-TV television broadcast Sept. 16, 1997).

¹⁰⁴ 17 News at 11:00 (WNCN-TV television broadcast, Sept. 15, 1997).

¹⁰⁵ *Id.*

¹⁰⁶ See, e.g., Marlene Cimons, *FDA Calls for Recall of Popular Diet Drugs; Users of Fenfluramine, the 'Fen' in Fen-Phen, and Redux Warned Not to Use Medications; Heart Valve Damage Suspected; FDA Says to Avoid Popular Diet Drugs*, AUSTIN AM.-STATESMEN, Sept. 16, 1997, at B1; Raja Mishra, *FDA Requests Weight-Loss Drug Recall*, FORT WORTH STAR-TELEGRAM, Sept. 16, 1997, at 1; Lauran Neergaard, *2 Diet Drugs Pulled Off Market*, SAN ANTONIO EXPRESS-NEWS, Sept. 16, 1997, at 01A; Brigid Schulte, *FDA Withdraws Two Diet Drugs; Redux and Portion of Fen-Phen Linked to*

[Footnote continued on next page]

throughout Ohio carried news of the withdrawal.¹⁰⁷ The story was featured prominently in major newspapers in cities such as Dallas, Houston, and San

[Footnote continued from previous page]

Damage of Heart Valves, HOUSTON CHRON., Sept. 16, 1997, at 1A; Karin Shaw, *Requests for Pills Drop as Health Concerns Grow; Doctors Say Removal of Redux, 'Fen' Not a Shock*, DALLAS MORNING NEWS, Sept. 16, 1997, at 4A; George Flynn, *Pair Sue Makers of Fen-Phen; 2 Houston Women Hit Lack of Warning*, HOUSTON CHRON., Sept. 17, 1997, at 21.

¹⁰⁷ *Newschannel 5, Live at Five* (WEWS-TV Sept. 15, 1997); *Twenty-Four News at Six* (WNWO-TV Sept. 15, 1997); *Twenty-Four Hour News at 5:00* (WTVG-TV Sept. 15, 1997); *Toledo 11: Newschannel at Noon* (WTOL-TV Sept. 15, 1997); *Toledo 11: First at Five* (WTOL-TV Sept. 15, 1997); *NewsCenter 7 at 5:00* (WHIO-TV Sept. 15, 1997); *6 News at 5:00* (WSYX-TV Sept. 15, 1997); *10 News at 12:00* (WBNS-TV Sept. 15, 1997); *10 News at 5:00* (WBNS-TV Sept. 15, 1997); *News 4 at Noon* (WCMH-TV Sept. 15, 1997); *Live at Five* (WCMH-TV Sept. 15, 1997); *News 4 at Eleven* (WCMH-TV Sept. 15, 1997); *Twenty-Four Hour News at 12:00* (WTVG-TV Sept. 15, 1997); *Toledo 11: News Nightbeat* (WTOL-TV Sept. 15, 1997); *Channel 9 News at Noon* (WCPO-TV Sept. 15, 1997); *Cincinnati's 5:00 News* (WCPO-TV Sept. 15, 1997); *Channel 12 News at Six* (WKRC-TV Sept. 15, 1997); *Channel 12 News Tonight* (WKRC-TV Sept. 15, 1997); *Channel 19 Ten O'Clock News* (WXIX-TV Sept. 15, 1997); *News 5 at 5:00* (WLWT-TV Sept. 15, 1997); *News 5 Tonight* (WLWT-TV Sept. 15, 1997); *News 19 at Noon* (WOIO-TV Sept. 15, 1997); *News 19 at 11:00* (WOIO-TV Sept. 15, 1997); *Eight is News at Noon* (WJW-TV Sept. 15, 1997); *Eight is News at Five* (WJW-TV Sept. 15, 1997); *Eight is News at Ten* (WJW-TV Sept. 15, 1997); *Channel 3 News at 6* (WKYC-TV Sept. 15, 1997); *43 News at 10:00* (WUAB-TV Sept. 15, 1997); *2 News at 5:00* (WDTN-TV Sept. 15, 1997); *2 News at 11:00* (WDTN-TV Sept. 15, 1997); *NewsCenter 7 at Noon* (WHIO-TV Sept. 15, 1997); *22 News at 11:00* (WKEF-TV Sept. 15, 1997); *News 19 at Noon* (WOIO-TV Sept. 16, 1997); *19 News Midday* (WXIX-TV Sept. 16, 1997); *Channel 12 News at 5:30* (WKRC-TV Sept. 16, 1997); *Good Morning Cleveland* (WEWS-TV Sept. 16, 1997); *News 5 Today* (WLWT-TV Sept. 16, 1997); *2 News This Morning* (WDTN-TV Sept. 16, 1997); *Toledo 11: First at Five* (WTOL-TV Sept. 16, 1997); *NewsCenter 7 Daybreak* (WHIO-TV Sept. 16, 1997); *6 News at 6:00* (WSYX-TV Sept. 16, 1997); *Eyewitness News at 5:00* (WBNS-TV Sept. 16, 1997); *Eyewitness News at 6:00* (WBNS-TV Sept. 16, 1997); *Eyewitness News at 11:00* (WBNS-TV Sept. 16, 1997); *News 4 at Sunrise* (WCMH-TV Sept. 16, 1997); *2 News at Noon* (WDTN-TV Sept. 16, 1997); *Wake Up Toledo* (WTOL-TV Sept. 16, 1997); *Eight is News This Morning* (WJW-TV Sept. 15, 1997); *Popular Diet Drugs Pulled Off Market*, CINCINNATI POST, Sept. 15, 1997, at 1A; *Company, FDA Pull Diet Pills Off Market*, VINDICATOR (Youngstown, Ohio), Sept. 15, 1997, at A-1; *Two Diet Drugs Yanked After Tests Uncover Heart Damage*, CINCINNATI ENQUIRER, Sept. 16, 1997, at 1A; *FDA Pulls Diet Drugs Redux, Pondimin*, CLEVELAND PLAIN DEALER, Sept. 16, 1997, at 1-A; *Sales of Two Diet Drugs Halted*, COLUMBUS DISPATCH, Sept. 16, 1997, at 1A; *2 Diet Drugs Off Market*, DAYTON DAILY NEWS, Sept. 16, 1997, at 1A; *FDA Pulls Diet Drugs Off Market*, SPRINGFIELD NEWS-SUN, Sept. 16, 1997, at 1A; Lauran Neergaard, *Diet Drug Found Unsafe, Removed from Shelves*, TALLMADGE EXPRESS (Stow, Ohio), Sept. 16, 1997, at A1; Lauran Neergaard, *FDA Yanks Popular Diet Drugs Off Market*, REPOSITORY (Canton, Ohio), Sept. 16, 1997, at A-1; *U.S. Orders 2 Diet Aids Off Market*, BLADE (Toledo, Ohio), Sept. 16, 1997, at 1A; *Some Dieters Angry at Loss of Drug*, CINCINNATI

[Footnote continued on next page]

Antonio. The *Dallas Morning News* printed a front-page story entitled “Diet Drugs Taken Off Market; Redux, ‘Fen’ Linked to Heart Problems.”¹⁰⁸ The article quoted a Texas nutritionist as saying “I would tell people to flush their pills down the toilet so they don’t get tempted to take them again.”¹⁰⁹ The article also described the symptoms of heart valve disease.¹¹⁰ Like other regional television news stations, Texas stations extensively covered the news of the withdrawal.¹¹¹ One top story on a local broadcast in Houston told viewers that “[t]wo of the country’s most popular diet drugs are pulled from the shelves [E]vidence shows that they could seriously damage the heart.”¹¹²

[Footnote continued from previous page]

POST, Sept. 16, 1997, at 1A; *Popular Obesity Drugs Taken Off Market*, DAILY REPORTER (Columbus, Ohio), Sept. 16, 1997, at 1A; Lauran Neergaard, *FDA Moves Against Two Diet Drugs*, NEWS-HERALD (Willoughby, Ohio), Sept. 16, 1997, at A-1.

¹⁰⁸ Sue Goetinik, *Diet Drugs Taken Off Market; Redux, ‘Fen’ Linked to Heart Problems*, DALLAS MORNING NEWS, Sept. 16, 1997, at 1A.

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ See, e.g., 4 News at 9:00 (KDFW-TV television broadcast, Sept. 15, 1997); 5 News at 5:00 (KXAS-TV television broadcast, Sept. 15, 1997); 8 News Update (WFAA-TV television broadcast, Sept. 15, 1997); 11 News at 5:00 (KHOU-TV television broadcast, Sept. 15, 1997); 11 News at 6:00 (KTVT-TV television broadcast, Sept. 15, 1997); 13 News at 5:00 (KTRK-TV television broadcast, Sept. 15, 1997); 23 Noticias (KUVN-TV television broadcast, Sept. 16, 1997); 26 News at 12:30 (KRIV-TV television broadcast, Sept. 15, 1997); 48 Noticiero (KTMD-TV television broadcast, Sept. 15, 1997); PM Drive News (KTRH-AM radio broadcast, Sept. 15, 1997); Noon News (WBAP-AM radio broadcast, Sept. 15, 1997).

¹¹² 2 News at 5:00 (KPRC-TV television broadcast Sept. 15, 1997).

III. Publicity Concerning the Government Warning In November 1997

47. On November 14, 1997, the United States Department of Health and Human Services published health warnings for former users of Pondimin and Redux. That agency recommended that all former users of diet drugs should see their physicians.¹¹³ That recommendation led to another massive wave of publicity.

A. National Publicity About the Government Warning

48. Tom Brokaw reported on the new recommendation for diet drug users on the “NBC Nightly News”:

Another warning tonight for the millions of Americans who took the diet drugs phen-fen. The government is urging all of them to see their doctors, even if they feel fine. The drugs were pulled off the market in September after they were shown to cause serious heart problems. The experts say the dieters should be checked for any heart or lung problems.¹¹⁴

The “CBS Evening News” broadcast a similar report, in which Dan Rather reported:

Also tonight, a government warning to millions of users of the diet drug combination known as fen-phen for short. The government says anyone who used fen-phen, or even one of the two drugs,

¹¹³ *Cardiac Valvulopathy Associated with Exposure to Fenfluramine or Dexfenfluramine: U.S. Department of Health and Human Services Interim Public Health Recommendations, November 1997*, 46 Morbidity and Mortality Weekly Report, 1061, 1061-65 (Nov. 14, 1997).

¹¹⁴ *NBC Nightly News* (NBC television broadcast, Nov. 13, 1997).

should be checked for possible heart or lung damage.¹¹⁵

ABC's "World News" broadcast a similar story. The broadcast began:

If you are a dieter who has tried fen-phen or Redux, there are new reasons to get to a doctor. The government has intensified its warnings about the potential effects of the drug, even for those who are now feeling fine.¹¹⁶

"Good Morning America" broadcast a similar story.¹¹⁷

49. CNN also prominently featured the government recommendation in its broadcasts. CNN reported that "If you've taken the diet drugs phen-phen or Redux, health officials say you better see your doctor."¹¹⁸ During this news segment, Dr. Michael Friedman, acting commissioner of the FDA, was shown saying, "We know that -- that some individuals who have taken these diet medications have -- have heart valves that are thick and don't function properly."¹¹⁹ Later that day, Joie Chen, a CNN co-anchor, reported:

The government is warning anyone who used the diet drugs fen-phen or Redux for any amount of time to see a doctor and get a physical exam, even if you feel fine. This comes two months after the popular diet pills were pulled from the market, due to suspected links with potentially deadly heart valve damage.¹²⁰

¹¹⁵ *CBS Evening News* (CBS television broadcast, Nov. 13, 1997).

¹¹⁶ *World News Now* (ABC television broadcast, Nov. 14, 1997).

¹¹⁷ *Good Morning America* (ABC television broadcast, Nov. 14, 1997).

¹¹⁸ *Early Prime* (CNN television broadcast, Nov. 13, 1997).

¹¹⁹ *Id.*

¹²⁰ *The World Today* (CNN television broadcast, Nov. 13, 1997)

“CNN Headline News” further broadcast a story on the government’s recommendation:

If you are one of the millions of Americans who turned to Phen/Fen or Redux to lose weight, it is time to make an appointment with your doctor. In September, both prescription drugs were pulled from the market because the key ingredient was linked to heart valve damage. Today the government began recommending that former users should have their hearts examined. They should get an echocardiogram if symptoms are found. They should use antibiotics before surgery or dental work if they have valve damage.¹²¹

“CNN Headline News” carried the story multiple times on November 14, 1997.¹²²

50. The *Associated Press* reported on the government’s recommendation on November 14, 1997, in an article entitled “Fenfluramine, Redux Dieters Are Urged to See Physicians.”¹²³ The article stated that “[a]nyone who has ever used the two recently recalled diet drugs for any length of time should see a physician and get a physical examination, the government said yesterday.”¹²⁴

¹²¹ *Headline News* (CNN Headline News television broadcast, Nov. 13, 1997).

¹²² See *CNN Headline News* (CNN Headline News television broadcast, Nov. 14, 1997).

¹²³ Associated Press, *Fenfluramine, Redux Dieters Are Urged to See Physicians*, WASHINGTON POST, Nov. 14, 1997 at A24.

¹²⁴ See *id.*

51. News about the government warning was also featured in national newspapers, including the *Washington Post*, *The Wall Street Journal*, *USA Today*, and the *New York Times*.¹²⁵

B. Local Publicity About the Government Warning

52. News of the government's warning that diet drug users should see their doctors was widely published in newspapers and broadcast on television in the West.¹²⁶ For example, a *Los Angeles Times* article entitled "Heart Tests Urged For Users of Fen-Phen," reported that "[a]nyone who took the drugs . . . should undergo an echocardiogram . . . whether or not they have symptoms of heart disease."¹²⁷ Local news broadcasts relayed similar messages. One, from a CBS affiliate in Los Angeles, stated that the government "says if you took [fenfluramine or Redux] for any amount of time, go see your doctor."¹²⁸

53. Major newspapers in other western states, such as Utah, published articles about the government's warnings concerning the possible risks of

¹²⁵ *Fenfluramine, Redux Dieters are Urged to See Physicians*, WASH. POST, Nov. 14, 1997, at A24; *FDA Says Fen-Phen Users Need Doctor's Examination*, WALL STREET J., Nov. 14, 1997, at B13; Nancy Hellmich, *Takers of Some Diet Drugs are Urged to Get Medical Exam*, USA TODAY, Nov. 14, 1997, at 3A; Lawrence K. Altman, *Heart Checks Urged for Users of Diet Pills*, N.Y. TIMES, Nov. 14, 1997.

¹²⁶ Sabin Russell, *Diet Drug Study Prompts Users' Hearts Concerns/ Uproar over Fen-Phen's Effect*, SAN FRANCISCO CHRON., Nov. 28, 1997, at A1; *7 News at 6:00* (KGO-TV television broadcast, Nov. 13, 1997); *Eyewitness News* (KABC-TV television broadcast, Nov. 13, 1997); *Eyewitness News at Ten* (KPIX-TV television broadcast, Nov. 13, 1997); *Newscenter Four Nightbeat* (KRON-TV television broadcast, Nov. 13, 1997); *13 News at 10:00* (KCOP-TV television broadcast Nov. 14, 1997).

¹²⁷ Lawrence K. Altman, *Heart Tests Urged for Users of Fen-Phen*, LOS ANGELES DAILY NEWS, Nov. 14, 1997, at 16.

¹²⁸ *2 News at 11:00* (KCBS-TV television broadcast Nov. 13, 1997).

diet drugs.¹²⁹ Additionally, the issue was reported on the local news.¹³⁰ For example, the NBC station in Salt Lake City urged former users to undergo a physical because “as many as one in three former Fen-Phen and Redux users may have damaged heart valves.”¹³¹

54. Media outlets around the Northeast likewise carried the government’s recommendation that diet drug users consult a physician.¹³² For instance, the *New York Times* and the *New York Daily News*, as well as local television stations, provided warnings regarding diet drugs.¹³³ New

¹²⁹ See, e.g., *Diet-Drug Users Are Told to Get Physical Checkups*, SALT LAKE TRIB., Nov. 14, 1997, at A16; *Taken ‘Fen-Phen’ or Redux? See Your Doctor, FDA Says*, DESERET NEWS (Salt Lake City, Utah), Nov. 15, 1997.

¹³⁰ See, e.g., *13 News at 9:00* (KSTU-TV television broadcast, Nov. 13, 1997); *2 News at 10:00* (KUTV-TV television broadcast, Nov. 22, 1997).

¹³¹ *5 News at 6:30* (KSL-TV television broadcast, Nov. 13, 1997).

¹³² See, e.g., *Agency Issues Advisory for Dieters*, HARTFORD COURANT, Nov. 14, 1997, at A14; *Taken Fen-Phen or Redux? See Your Doctor, Feds Say*, BRISTOL PRESS (Bristol, Conn.), Nov. 14, 1997; *Diet Drug Users Warned: See Your Doctors Now*, CONNECTICUT POST (Bridgeport, Conn.), Nov. 14, 1997; *Taken Fen-Phen or Redux? See Your Doctor, Government Says*, GLOUCESTER COUNTY TIMES (Woodbury, Conn.), Nov. 14, 1997; *FDA Advises Dieters to Get a Checkup*, HOUR (Norwalk, Conn.); Tara Meyer, *Dieters Who’ve Taken Redux or Fen-Phen Advised to See Doctor Even if They Feel Fine*, JOURNAL INQUIRER (Manchester, Conn.), Nov. 14, 1997; *Fen-Phen or Redux Users Should See Doctor Even if They Feel Fine*, MIDDLETOWN PRESS (Middletown, Conn.), Nov. 14, 1997; *Fen-Phen, Redux Dieters Advised to See Doctor*, NEW HAVEN REGISTER (New Haven, Conn.), Nov. 14, 1997; *Examination Advised for Users of Diet Drugs*, NEWS-TIMES (Danbury, Conn.), Nov. 14, 1997; *Doctors May Help Fen-Phen Users*, RECORD-JOURNAL (Meridien, Conn.), Nov. 14, 1997, Tara Meyer. *Government: Used Fen-Phen or Redux? See Your Doctor*, ADVOCATE (Stamford, Conn.), Nov. 14, 1997; *People Who’ve Taken Diet Drugs Should Get Exams*, FDA Advises, SUNDAY REPUBLICAN (Waterbury, Conn.), Nov. 16, 1997; *FDA Urges Heart Tests for Diet Drug Users*, NEW HAVEN REGISTER (New Haven, Conn.), Nov. 20, 1997, at E1; *News 9 at 5* (WMUR-TV Nov. 14, 1997).

¹³³ See, e.g., Lawrence K. Altman, *Heart Checks Urged for Users of Diet Pills*, N.Y. TIMES, Nov. 14, 1997; *Diet-Drug Users Advised to Have a Health Check*, TIMES UNION (Albany, N.Y.), Nov. 14, 1997, at A1; Tara Meyer, *Dieters Who Used Fen-Phen or Redux Told to Get Checkup*, BUFFALO NEWS, Nov. 14, 1997, at A8; *Taking Fen-Phen? See an MD- Feds*, N.Y. DAILY News, Nov. 14, 1997, at 42; *2 News at Noon* (WCBS-TV television broadcast, Nov. 14, 1997); *4 News Today* (WNBC-TV television broadcast

[Footnote continued on next page]

York's *Newsday* urged "[a]nyone who has ever taken the controversial diet drugs Pondimin or Redux, which have been linked to heart valve disease," to visit a doctor and get an echocardiogram even if they felt no symptoms.¹³⁴ The article further cautioned that the Department of Health and Human Services said patients who took the pills should not wait for symptoms like shortness of breath or a heart murmur to appear before being examined for heart or lung damage.¹³⁵

55. Newspapers and television stations in Massachusetts similarly disseminated the government's admonition that diet drug users visit their physicians.¹³⁶ For example, in addition to the government recommendation to undergo a physical examination, a *Boston Globe* article included the government guidelines issued to address the questions many users had.¹³⁷ One of the television news broadcasts warned that former diet drug users should have a physical because "[b]y the time [a patient] develops

[Footnote continued from previous page]

Nov. 14, 1997); *Eyewitness News This Morning* (WABC-TV television broadcast Nov. 14, 1997); *Good Day First Edition* (WNYW-TV Nov. 14, 1997).

¹³⁴ Kathleen Kerr, *Diet Drug User Warning*, NEWSDAY, Nov. 14, 1997, at A26.

¹³⁵ *Id.*

¹³⁶ See, e.g., Tara Meyer, *Diet Drug Users Are Told to See Doctors; Advice Goes for Those Feeling Fine*, BOSTON HERALD, Nov. 14, 1997, at 3; Tara Meyer, *Dieters Taking Drugs Told to See Physician*, UNION-NEWS (Springfield, Mass.), Nov. 14, 1997, at A1; 7 News at 9:00 (WHDH-TV Nov. 15, 1997).

¹³⁷ *Exams Urged for All Users of Fen-Phen, Redux*, THE BOSTON GLOBE, Nov. 14, 1997, at A3.

symptoms, [the patient is] already at a point that may be in fact irreversible.”¹³⁸

56. Like other newspapers in the region, Delaware newspapers such as Wilmington’s *News Journal* ran articles recommending that diet drug users go see their physicians.¹³⁹ The *News Journal*’s article entitled “Diet Drug Users Told to Get Physical Exam” instructed former diet drug users to “get a physical exam, even if they feel fine.”¹⁴⁰

57. The same publicity about the government’s warning in November 1997 occurred throughout the South. For example, the *Sun-Sentinel* in Ft. Lauderdale, Florida, informed its readers that “[d]ieters who have used fen-phen or redux for any amount of time should see their doctor and get a physical exam, even if they feel fine.”¹⁴¹ Many other Florida newspapers and television stations published and broadcast similar stories.¹⁴²

¹³⁸ 7 News at 9:00 (WHDH-TV television broadcast, Nov. 15, 1997).

¹³⁹ *Diet Drug Users Told to Get Physical Exam*, NEWS J. (Wilmington, Del.), Nov. 14, 1997, at A4.

¹⁴⁰ *Id.*

¹⁴¹ *Taken Fen-Phen? See Your Doctor, FDA Warns*, SUN-SENTINEL (Ft. Lauderdale, Fla.), Nov. 14, 1997, at 3A.

¹⁴² 25 News at 5:00 (WPBF-TV Nov. 13, 1997); 2 News at 5:00 (WESH-TV Nov. 13, 1997); 6 News at 5:30 (WTVJ-TV Nov. 13, 1997); 4 Eyewitness News Nightbeat (WJXT-TV Nov. 13, 1997); 10 News at 11:00 (WPLG-TV Nov. 13, 1997); 7 News at 6:00 (WSVN-TV Nov. 13, 1997); 28 Tampa Bay News (WFTS-TV Nov. 13, 1997) Fox 13 10:00 News (WTVT-TV Nov. 13, 1997) Eyewitness News 11:00 (WPEC-TV Nov. 13, 1997) Ten O’Clock News (WFLX-TV Nov. 13, 1997); *Fen-Phen, Redux Users Told to See Doctors*, TAMPA TRIB., Nov. 14, 1997, at 2; *Taken Fen-Phen? Here’s New Advice*, ORLANDO SENTINEL, Nov. 14, 1997, at A11; *Users of Fen-Phen or Redux Urged to See Doctor*, FLA. TIMES-UNION, Nov. 14, 1997, at A1; *Taken Fen-Phen? See Your Doctor, FDA Warns*, FORT LAUDERDALE SUN-SENTINEL, Nov. 14, 1997; 4 News This Morning (Miami, Fla.) (WFOR-TV television broadcast, Nov. 14, 1997); Channel 5 News at 5:00 (WPTV-TV Nov. 14, 1997); Newschannel 8 at Noon (WFLA-TV Nov. 14, 1997); 4 Eyewitness News at Noon (WJXT-TV Nov. 14, 1997); 12 First News at 5 (WTLV-TV

[Footnote continued on next page]

58. Georgia newspapers likewise reported on the government's warning. The *Atlanta Journal* and the *Atlanta Constitution* both published stories on November 14, 1997, urging Pondimin and Redux users to visit their doctors.¹⁴³ The *Atlanta Constitution* printed a front-page article with the headline "Checkups Urged for Takers of 2 Diet Drugs," which explained that "there have been enough reports of heart-valve damage associated with the appetite suppressants . . . to justify at least a physical exam for anyone who has taken the drugs."¹⁴⁴

59. Georgia television news programs also broadcast segments urging diet drug users to visit their doctors for evaluation.¹⁴⁵ On one such program, the Atlanta Fox station reported: "There's an important new warning tonight for anyone who has taken the diet drugs Fen-Phen and Redux. The Centers for Disease Control and Prevention says the drugs could cause heart problems. The CDC is encouraging dieters who used them to have their heart thoroughly checked by a doctor."¹⁴⁶

[Footnote continued from previous page]

Nov. 14, 1997); *10 News at Noon* (WTSP-TV Nov. 14, 1997); *Fox 13 Good Day* (WTVT-TV Nov. 14, 1997); *Eyewitness News Nightbeat* (WPLG-TV Nov. 14, 1997); *News Channel 2 Sunrise* (WESH-TV Nov. 14, 1997); *3 News Morning* (WEAR-TV Nov. 14, 1997); *6 News Midday* (WTvj-TV television broadcast, Nov. 14, 1997); *Eyewitness News Daybreak* (WPLG-TV television broadcast, Nov. 14, 1997).

¹⁴³ See, e.g., M.A.J. McKenna, *Drugs Have Fallen From day in the Sun,*" ATLANTA JOURNAL, Nov. 14, 1997, at G4; M.A.J. McKenna, *Checkups Urged for Takers of 2 Diet Drugs*, ATLANTA CONST., Nov. 14, 1997, at A1.

¹⁴⁴ *Id.*

¹⁴⁵ See, e.g., *11 News at 5:00* (WXIA-TV television broadcast, Nov. 13, 1997); *46 News Tonight* (WGNX-TV television broadcast, Nov. 13, 1997).

¹⁴⁶ *Fox 5 Eyewitness News 10 PM* (WAGA-TV television broadcast, Nov. 13, 1997).

60. The *New Orleans Times-Picayune* in Louisiana similarly published an article detailing the government's warning that diet drug users consult their doctors.¹⁴⁷ The article, "Heart Checks Urged For Users of Diet Drugs," explained that the "new recommendations are a response to widespread confusion among patients and doctors about what they should do."¹⁴⁸

61. North Carolina newspapers and television stations also urged fen-phen and Redux users to visit their physicians.¹⁴⁹ One newspaper reporting on the issue, the *Charlotte Observer*, emphasized that the new warning applies to anyone who has used the drug—not just those who are experiencing symptoms of heart valve damage.¹⁵⁰ The article even stressed that former users undergoing a dental procedure should be examined.¹⁵¹

62. Media in the central United States also relayed to the public the government's warning that diet drug users should consult their doctors.¹⁵²

¹⁴⁷ Lawrence K. Altman, *Heart Checks Urged for Users of Diet Drugs*, NEW ORLEANS TIMES-PICAYUNE, Nov. 14, 1997, at A20.

¹⁴⁸ *Id.*

¹⁴⁹ See, e.g., Tara Meyer, *Fen-Phen, Redux Users: See Doctor*, CHARLOTTE OBSERVER, Nov. 14, 1997, at 9A; 3 News This Morning (WBTV-TV television broadcast, Nov. 14, 1997); 5 News at 12:00 (WRAL-TV television broadcast, Nov. 14, 1997); 11 News at 5:30 (WTVD-TV television broadcast, Nov. 14, 1997).

¹⁵⁰ Tara Meyer, *Fen-Phen, Redux Users: See Doctor*, CHARLOTTE OBSERVER, Nov. 14, 1997, at 9A.

¹⁵¹ *Id.*

¹⁵² News Channel 4 at 11:00 (WCMH-TV Nov. 13, 1997); Channel 9 News at 11:00 (WCPO-TV Nov. 13, 1997); Channel 19 Ten O'Clock News (WXIX-TV Nov. 13, 1997); News 5 at 5:00 (WLWT-TV Nov. 13, 1997); Eight is News at Ten (WJW-TV Nov. 13, 1997); Channel 9 News at Noon (WCPO-TV Nov. 14, 1997); Channel 43 News Midday (WUAB-TV Nov. 14, 1997); Channel 3 News at Noon (WKYC-TV Nov. 14, 1997); News 5 at 5:00 (WLWT-TV Nov. 14, 1997); Eight is News at 5:00 (WJW-TV Nov. 14,

[Footnote continued on next page]

For example, major newspapers in Texas prominently featured the story.¹⁵³ Local television news reports did the same.¹⁵⁴ The *Dallas Morning News* ran a front-page article entitled: "Fen-Phen Cautions Widened; All Who Used Diet Aid Urged to Get Checkups."¹⁵⁵ The article detailed the government recommendation and quoted insurance spokesmen claiming that the checkups would be covered by particular insurance plans. News broadcasts in the region stressed the urgency of getting a physical to the former users of Redux and fenfluramine. For example, the ABC affiliate in

[Footnote continued from previous page]

1997); *6 News at 5:00* (WSYX-TV Nov. 14, 1997); *Eyewitness News 10 at 5:00* (WBNS-TV Nov. 14, 1997); *News Channel 4 at 5:30* (WCMH-TV Nov. 14, 1997); *News Channel 4 at Noon* (WCMH-TV Nov. 14, 1997); *Eyewitness News 10 at 5:30* (WBNS-TV Nov. 14, 1997); *2 News at 5:00* (WDTN-TV Nov. 14, 1997); *NewsCenter 7 at Noon* (WHIO-TV Nov. 14, 1997); *NewsCenter 7 at 5:00* (WHIO-TV Nov. 14, 1997); *First at Five* (WTOL-TV Nov. 14, 1997); *News 19 at Noon* (WOIO-TV Nov. 14, 1997); *2 News This Morning* (WDTN-TV Nov. 17, 1997); *See Doctor if You Took Diet Drugs*, CINCINNATI POST, Nov. 14, 1997; Tara Meyer, *Taken Fen-Phen or Redux? See Your Doctor, Government Says*, DAILY REPORTER (Columbus, Ohio), Nov. 14, 1997; *Fen-Phen, Redux Users Urged to See a Doctor*, THE LIMA NEWS (Lima, Ohio), Nov. 14, 1997; *Diet Drug Users Told They Should See Doctor*, BLADE (Toledo, Ohio), Nov. 14, 1997; Tara Meyer, *U.S. Advises Diet Aid Users to Get Checkups*, CLEVELAND PLAIN DEALER, Nov. 14, 1997, at 20A; *Risky Diet Drugs: Feds Urge All Patients to Be Tested for Damage*, CLEVELAND PLAIN DEALER, Nov. 14, 1997; Tara Meyer, *Diet Drug Users Need Physicals, FDA Says*, DAYTON DAILY NEWS, Nov. 14, 1997; *Exams Ordered for All Redux, Fen-Phen Users*, CINCINNATI ENQUIRER, Nov. 14, 1997.

¹⁵³ See, e.g., *Diet Drug Users Urged to Undergo Examination*, AUSTIN AM-STATESMAN, Nov. 14, 1997, at A5; Tara Meyer, *Fen or Phen Users Urged to Get Exams; Government Advice Follows Diet Drug Recall*, FORT WORTH STAR-TELEGRAM, Nov. 14, 1997, at 1; Tara Meyer, *Fen-Phen Users Told to See a Doctor*, SAN ANTONIO EXPRESS-NEWS, Nov. 14, 1997, at 01A; Tara Meyer, *Redux, Fen-Phen Users Advised to Get Checkup/FDA Urges Testing for Heart Valve Damage*, HOUSTON CHRON., Nov. 14, 1997, at 21.

¹⁵⁴ See, e.g., *2 News* (KPRC-TV television broadcast, Nov. 13, 1997); *11 News at 5:00* (KHOU-TV television broadcast, Nov. 14, 1997); *11 News This Morning* (KTWT-TV television broadcast, Nov. 14, 1997); *Eyewitness News at 5:30* (KTRK-TV television broadcast, Nov. 14, 1997); *Fox News at 6:00* (KRIV-TV television broadcast, Nov. 14, 1997); *Good Day Dallas* (CSPAN-2 television broadcast, Nov. 14, 1997).

¹⁵⁵ Lawrence K. Altman, *Fen-Phen Cautions Widened: All Who Used Diet Aid Urged to Get Checkups*, DALLAS MORNING NEWS, Nov. 14, 1997, at 1A.

Dallas reported that “[m]any obesity experts insisted all along that patients should get a heart exam just as soon as the FDA raised questions about the drug.”¹⁵⁶

IV. Publicity Concerning Diet Drug Litigation in 1999

63. In August 1999, a jury in Texas awarded Plaintiff Debbie Lovett more than \$23 million in damages for injuries allegedly caused by her ingestion of Pondimin. CNN broadcast news about the Lovett verdict, including in its coverage the fact that the Lovett case was “the first of thirty-one hundred pending fen-phen cases.”¹⁵⁷ The “CBS Evening News” also aired a story on the Lovett verdict, explaining not only the possible association between Pondimin and heart valve damage, but also noting the withdrawal of the drug in 1997.¹⁵⁸ Other major newspapers, including the *Washington Post* and *The Wall Street Journal*, published news of the verdict as well.¹⁵⁹

64. The verdict also was reported in various local newspapers around the country.¹⁶⁰ The *Salt Lake Tribune* published a story about the verdict on

¹⁵⁶ 8 News Daybreak (WFAA-TV television broadcast, Nov. 14, 1997).

¹⁵⁷ CNN Headline News Second Watch (CNN Headline News television broadcast, August 6, 1999); CNN Headline News (CNN Headline News television broadcast, Aug. 6, 1999).

¹⁵⁸ CBS Evening News (CBS television broadcast, Aug. 6, 1999). See also NBC Nightly News (NBC television broadcast, Aug. 6, 1999).

¹⁵⁹ See *Fen-Phen User Awarded \$23 Million*, WASHINGTON POST, Aug. 7, 1999, at A05; Robert Langreth, *American Home Is Ordered to Pay \$23.36 Million in Diet-Drug Suit*, WALL ST. J., Aug. 9, 1999, at A4.

¹⁶⁰ See, e.g., *Fen-Phen Maker Ordered to Pay Texan \$23 Million*, DESERET NEWS (Salt Lake City, Utah), Aug. 6, 1999, at A06; *A 36-Year Old Woman Who Faces Lifelong Heart . . .*, NEWSDAY (N.Y.), Aug. 7, 1999, at A079; *\$23 Million Awarded in Diet Drug*

[Footnote continued on next page]

[Footnote continued from previous page]

Lawsuit; Texas Case, First of Its Kind to Go to a Jury, Opens Way For Others, AUSTIN AM.-STATESMAN, Aug. 7, 1999, at A1; Sharon Bernstein & Paul Jacobs, *Woman Wins \$23 Million in Suit Against Fen-Phen Company*, BUFFALO NEWS, August 7, 1999; *Jury Awards \$23.3M in Diet-Drug Case*, BOSTON GLOBE, Aug. 7, 1999, Mike Finger, *Jury Finds Fen-Phen Maker Liable*, ENTERPRISE (Brockton, Mass.), Aug. 7, 1999, at A1; *Woman Awarded \$23 Million in Diet Drug Case*, ATHOL DAILY NEWS (Athol, Mass.), Aug. 7, 1999; *Jury Awards Diet Pill Victim \$23M*, THE SUN (Lowell, Mass.), Aug. 7, 1999; Mike Finger, *Fen-Phen User Draws \$23M in First Award*, PATRIOT LEDGER (Quincy, Mass.), Aug. 7, 1999; Mike Finger, *Jury Awards \$23M to Diet Drug Victim*, SUN CHRONICLE (Attleboro, Mass.), Aug. 7, 1999, at 1A; Mike Finger, *Woman Wins \$23M After Victory in Diet Drug Lawsuit*, NORTH ADAMS TRANSCRIPT (North Adams, Mass.), Aug. 7, 1999; *Jury Awards \$23M in Fen-Phen Case*, TELEGRAM & GAZETTE (Worcester, Mass.), Aug. 7, 1999; *\$23 Million Awarded in Fen-Phen Case*, BERKSHIRE EAGLE, (Pittsfield, Mass.) Aug. 7, 1999; Mike Finger, *Jury Finds Diet Drug Company Liable*, STANDARD-TIMES (New Bedford, Mass.), Aug. 7, 1999; Mike Finger, *Woman to Receive \$23M in Diet Drug Lawsuit*, Greenwich Time (Greenwich, Conn.), Aug. 7, 1999; *Woman Wins \$23M in Diet Drug Suit*, NORWICH BULLETIN (Norwich, Conn.); *Woman Wins \$23M in Suit Against Diet Drug Manufacturer*, NEW HAVEN REGISTER (New Haven, Conn.), Aug. 7, 1999; *East Texas Woman Wins \$23 Million Award in Fen-Phen Case*, MIDDLETON PRESS (Middletown, Conn.), Aug. 7, 1997; *Texas Woman Wins \$23 Million Award in Fen-Phen Case*, BRISTOL PRESS (Britol, Conn.), Aug. 7, 1999; *Woman Awarded \$23 Million in Fen-Phen Case*, HERALD (New Britain, Conn.), Aug. 7, 1999; *Woman Wins \$23 Million in Fen-Phen Case*, DAY (New London, Conn.), Aug. 7, 1999; *AHP Shares Fall After \$23.3M Fen-Phen Verdict*, RECORD-JOURNAL (Meridien, Conn.), Aug. 7, 1999, ; *\$23M Awarded In Diet Drug Lawsuit*, REPUBLICAN-AMERICAN (Waterbury, Conn.), Aug. 7, 1999; Mike Finger, *East Texas Woman Wins \$23M Award in Fen-Phen Case*, ADVOCATE (Stamford, Conn.), Aug. 7, 1999, Sharon Bernstein and Paul Jacobs, *Fen-Phen Case Ends With Big Judgment*, HARTFORD COURANT, Aug. 7, 1999, at A1; *\$23 Million Awarded in Fen-Phen Case*, NEWS-TIMES (Danbury, Conn.), Aug. 7, 1999, at 1; *Woman Wins Millions in Fen-Phen Lawsuit*, NEWPORT DAILY NEWS (Newport, R.I.), Aug. 7, 1999; *Woman Awarded \$23 Million in Suit Over Fen-Phen Diet Drug*, PROVIDENCE JOURNAL, Aug. 7, 1999; Mike Finger, *Millions Awarded in Fen-Phen Case*, RUTLAND DAILY HERALD (Rutland, Vt.), Aug. 7, 1999, at 1; Mike Finger, *East Texas Woman Wins \$23M Award in Fen-Phen Case*, BENNINGTON (Vt.) BANNER, Aug. 7, 1999; *\$23 Million Awarded in Diet Drug Suit*, TIMES ARGUS (Barre, Vt.), Aug. 7, 1999; Mike Finger, *Jury Finds Drug Company Liable*, ST. ALBANS (Vt.) MESSENGER, Aug. 7, 1999; Mike Finger, *Diet-Drug User Wins \$23M From Company*, MORNING SENTINEL (Waterville, ME), Aug. 7, 1999; *Jury Awards Texas Woman \$23 Million in Diet Drug Case*, FOSTER'S DAILY DEMOCRAT (Dover, N.H.), Aug. 7, 1999; Mike Finger, *Woman Awarded \$23M From Diet Drug Company*, PORTSMOUTH HERALD (Portsmouth, N.H.), Aug. 7, 1999; *Woman Awarded \$23M in Diet Drug Verdict*, TELEGRAPH (Nashua, N.H.), Aug. 7, 1999; Mike Finger, *\$23 Million Awarded in Fen-Phen Case*, SAN ANTONIO EXPRESS-NEWS, Aug. 7, 1999, at 02A; *Fen-Phen User Awarded \$23 Million*, NEWS J. (Wilmington, Del.), Aug. 7, 1999; Mike Finger, *Fen-Phen User Draws \$23M in First Award*, PATRIOT LEDGER, Aug. 7, 1999, at 04; Mike Finger, *Texan Wins Suit Over Diet Drug Fen-Phen Maker to Appeal Big Award*, ATLANTA J. & ATLANTA CONST., Aug. 7, 1999, at A4; Mike Finger, *Woman Wins \$23 Million in Lawsuit over Fen-Phen; Jury Buys Claim That Diet Drug Damaged Heart*, NEW ORLEANS TIMES-PICAYUNE, Aug. 7, 1999, at A198; Mike Finger, *Woman With Heart Woes Wins \$23M in Diet Drug Case*, TIMES UNION (Albany, N.Y.), Aug. 7, 1999, at A5; Jim Yardley, *Diet Drug Maker*

[Footnote continued on next page]